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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,192	04/21/2005	Walter Link	026032-4887	8765
26371 7590 12/10/2007 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			EXAMINER WILSON, KAITLIN A	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 12/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/532,192	LINK, WALTER	
	Examiner	Art Unit	
	Kaitlin A. Wilson	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04/21/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species I: Figures 1-5 in the reply filed on 09/20/2007 is acknowledged.
2. Claims 8-10 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 09/20/2007.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
 - Where is "the joint" located within the seat back and relative to the counter-bearing and control device?
 - Is the "mechanical force-transmitting device" part of the "control device"?
 - Where are the claimed parts located relative to one another, ex. Location of the counter-bearing for interaction with the rotatably mounted part?
 - How do the parts interact to perform the necessary function of the invention?
 - What is meant by "control device"?

- What is meant by “counter-bearing”?
- How does the “mechanical guide” function to angularly adjust the movement of the “rotatably mounted part”?

5. MPEP 2164.01 establishes the analysis required to determine whether the filed disclosure contains sufficient information regarding the subject matter of the claims as to one skilled in the art to make and use the claimed invention without undue experimentation. The factors to be considered to determine whether any necessary experimentation is undue, also known as The Wand factors, see *In re Wands*, 858 F. 2d 737, 8 USPQ2d 1400, 1404 (Fed. Cir. 1988) include, but are not limited to:

- (A) The breadth of the claims;
- (B) The nature of the invention;
- (C) The state of the prior art;
- (D) The level of one of ordinary skill;
- (E) The level of predictability in the art;
- (F) The amount of direction provided by the inventor;
- (G) The existence of working examples; and
- (H) The quantity of experimentation needed to make or use the invention based on the content of the disclosure..

6. After analyzing the application with the above factors, the examiner concluded that there is no enabling disclosure of the seat back release mechanism and the interaction with the cables to allow the seat to both fold and recline. **The specification discloses a device for limiting the movement of a rotatably mounted part but does**

not disclose the way in which the parts interact to perform the desired operation.

The way in which the control device interacts with the joint and mechanical force-transmitting device is not clear. Therefore, the amount of direction provided by the inventor is not sufficient to allow one of ordinary skill in the art to make or use the invention without undue experimentation.

1. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Due to the lack of enablement, as stated above, the claims are also rejected under 35 U.S.C. 112, second paragraph for being indefinite. The Definiteness Test inquires:

(A) One skilled in the art would understand the bounds of the claim when read in light of the specification;

(B) Whether the claims, read in light of the specification, would reasonably apprise those skilled in the art the scope of the invention; and

(C) Whether the set circumscribe to a particular area with a reasonable degree of precision and particularity.

According to MPEP 2173.02, the examiner must consider the claim as a whole to determine whether the claim appraises one of ordinary skill in the art of its scope.

Also, the claim language should allow to clearly interpreting the metes and bounds of the claim so as to understand how to avoid infringement. In order to understand what is really being claimed in each claim, the examiner must read

them in view of the specification. Since the applicant did not provide sufficient information to enable one of ordinary skill in the art to make or use the invention, the claims lack clarity and precision. Therefore, the scope of the invention is not clearly stated, nor are the metes and bounds of the claim understood.

Consequently the claims are ambiguous and considered indefinite.

3. Claim 1 recites the limitation "the joint" in line 6. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 5 recites the limitation "the part" in line 2. It is unclear what is meant by "the part" within the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Leuchtmann et al. (US Patent 5,741,046).

7. In re Claim 1, with reference to Figures 1 and 5, Leuchtmann et al. disclose a device for limiting the movement (12) of rotatably mounted parts (4), in particular pivotable upholstery elements of vehicle seats (1), having a locking piece (22) which is arranged inside the rotatably mounted part (4) and can be made to releasably engage with a counter-bearing (50), characterized in that the locking piece (22) operatively

interacts with a control device (10,15,5) situated in the area of the joint (12) of the rotatably mounted part (3).

8. The examiner notes that that bore through which the bolt (22) travels is considered to be equivalent to the applicant's recitation of "the joint".

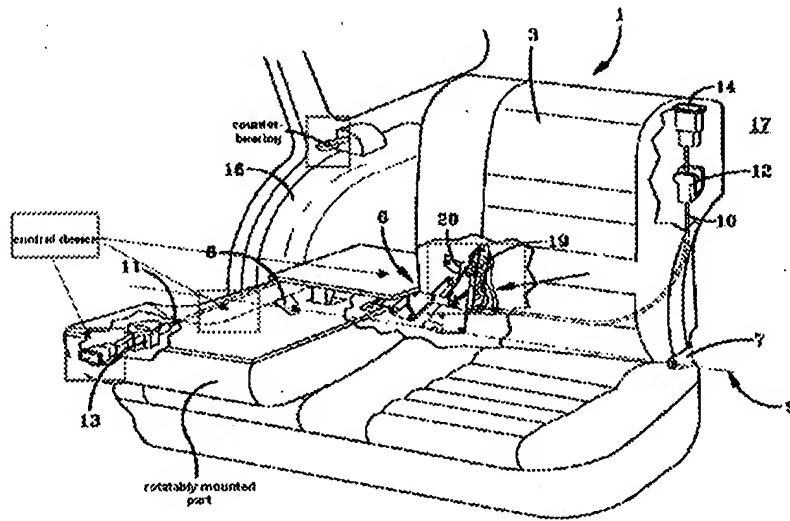


FIG-1

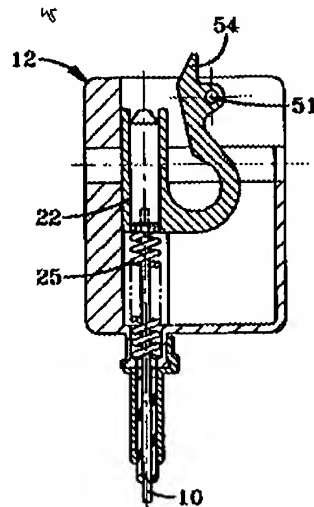


FIG-5

9. In re Claim 2, with reference to Figure 1, Leuchtmann et al. disclose that the operative interaction occurs by way of a mechanical force-transmitting device (10). The use of the Bowden cable to transmit a force from the operation of the upper lock to another location on the seat, reads on the applicant's "operative interaction".

10. In re Claim 3, with reference to Figure 5, Leuchtmann et al. disclose that the locking piece (22) comprises a bolt (22, col. 6, lines 24-29) which is preferably (Figure 5) longitudinally displaceable in the rotatably mounted part (4).

11. In re Claim 4, with reference to Figure 5, Leuchtmann et al. disclose that the bolt (22) has an inclined and/or arched end ace.

12. In re Claim 5, with reference to Figure 5, Leuchtmann et al. disclose that the bolt (22) is configured to be pushed into the part against action of a compression spring (25, col. 6, lines 27-35).

13. In re Claim 6, with reference to Figure 3, Leuchtmann et al. disclose that the control device (10,15,5) has mechanical guide means (5) in relation to which the rotatably mounted part (4) is angularly adjustable.

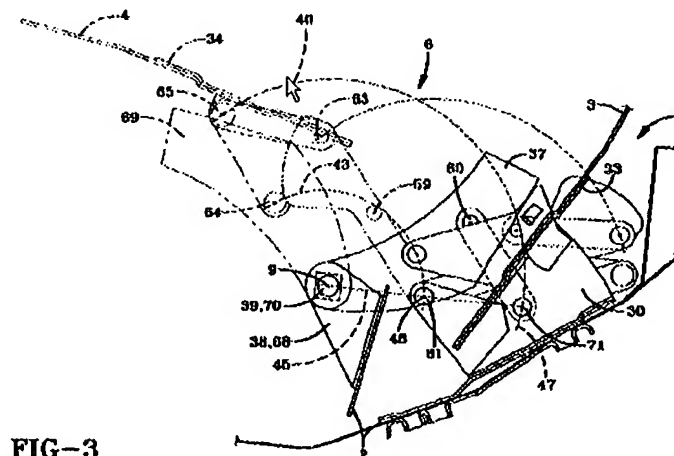


FIG-3

14. In re Claim 7, with reference to Figure 1, Leuchtmann et al. disclose that the counter-bearing (15, 50) acts as limit stop in one direction of rotation of the rotatably mounted part (4), and as releasable catch device (51,54) in the opposite direction of rotation (col. 6, lines 23-28).

Conclusion

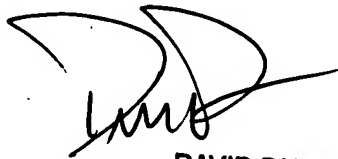
15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshida et al. (US patent 5,913,570) teaches a forwardly stowed rotatably mounted seat. Linder et al. (US Patent 5,681,081) teaches a locking device for a vehicle seat with a bolt and compression spring. Senseby et al. (US Patent Application 2002/0113480 A1) teaches a mechanism that latches a folding seat in a forward position. Tanaka (US Patent 6,132,000) teaches a lock release for a folding seat. Leichtl (US Patent 3,788,685) teaches a Bowden cable latch release to allow for the folding of a vehicle seat.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaitlin A. Wilson whose telephone number is (571)-270-3206. The examiner can normally be reached on Monday - Friday (7:00am-4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571)272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kaitlin A Wilson



DAVID DUNN
SUPERVISORY PATENT EXAMINER